

UNITED STATES DISTRICT COURT  
FOR THE EASTER DISTRICT OF TEXAS  
TEXARKANA DIVISION

RICHARD E. SOAPE, JR.

Plaintiff,

V.

JASWANT SINGH, PENSKE LEASING  
AND CANADA, INC.

Defendants.

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CIVIL ACTION NO. \_\_\_\_\_  
(removed from the 62nd Judicial  
District, Franklin County, Texas  
Cause No. 12036)

PENSKE TRUCK LEASING CO., L.P.'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Penske Truck Leasing Co., L.P. ("Penske"), and files this its  
Notice of Removal, and would respectfully show the Court as follows:

1. Penske was sued in a civil action entitled *Richard E. Soape, Jr. v. Jaswant Singh, Penske Leasing, and Canada, Inc.*, pending as Cause No. 12036 in the 62nd Judicial District of Franklin County, Texas (the "Lawsuit"). The Lawsuit was filed on April 19, 2016. In the Lawsuit, Plaintiff alleges he was injured in an automobile accident on February 17, 2015. Plaintiff served Penske on May 5, 2016 and Penske filed an answer on May 27, 2016. On June 2, 2016 Plaintiff filed his First Amended Original Petition to correctly identify Penske because Penske was incorrectly identified as "Penske Leasing" in the Original Petition. Penske's removal is timely because this notice is filed less than thirty days after the service of the original complaint. *See* 28 U.S.C. 1446(b) (2012).

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**I.**  
**BASIS FOR REMOVAL**

2. This case is removable based upon jurisdiction conferred by diversity of citizenship. *See* 28 U.S.C. §§ 1332, 1441; *Smallwood v. Ill. Cent. R.R. Co.*, 385 F.3d 568, 572 (5th Cir. 2005). To be removable on this basis, Defendant must demonstrate (1) diversity of citizenship among the parties and (2) that the amount in controversy exceeds \$75,000. *See* 28 U.S.C. §§ 1332, 1441; *Smallwood v. Ill. Cent. R.R. Co.*, 385 F.3d at 572. Defendant must also show that no defendant is a citizen of the forum state. 28 U.S.C. § 1332.

3. A notice of removal must allege diversity of citizenship both at the time of the filing of the suit and at the time of removal. *In re Allstate Ins. Co.*, 8 F.3d 219, 221 (5th Cir. 1993). Plaintiff was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a resident of Texas. *See* Plaintiff's Original Petition § 1.

4. Defendant Jaswant Singh ("Singh") was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a resident of Canada. *See* Plaintiff's Original Petition § 1. Singh's consent to this removal is not required because he has not been served. *McCrary v. Kansas City S. Ry. Co.*, 121 F. Supp. 2d 566, 570 (E.D. Tex. 2000).

5. Defendant Canada Inc. was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a resident of Canada. *See* Plaintiff's Original Petition § 1. Canada Inc.'s consent to this removal is not required because it has not been served.

6. Penske was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a limited partnership with its principal place of business in the State of Pennsylvania. For purposes of federal diversity jurisdiction, the partnership itself is considered a citizen of every state in which a general partner or limited partner is a citizen. At the time of filing this action, the time of removal, and all times since, and currently, the partners

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of Penske are and were citizens of the states of Delaware, Connecticut, Michigan, Pennsylvania, Tennessee, and Maryland and the country of Japan. As a result, for diversity purposes, the following are Penske's partners along with their citizenship:

a) The general partner of Penske is PTL GP, LLC. PTL GP, LLC is a limited liability company formed under the laws of Delaware. For diversity purposes, the citizenship of a limited liability company is the citizenship of its members. PTL GP, LLC's sole member is LJ VP Holdings, LLC, which is also a limited liability company formed under the laws of Delaware. At the time of the filing of this action, at the time of removal, at all times since, and currently, the members of LJ VP Holdings, LLC are and were citizens of the states of Delaware, Michigan and Pennsylvania, and none are or were citizens of the State of Texas. The following are LJ VP Holdings, LLC's members and their citizenship:

i) Penske Automotive Group, Inc., which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Michigan. Accordingly, for diversity purposes, Penske Automotive Group, Inc. is a citizen of Delaware and Michigan.

ii) Penske Truck Leasing Corporation, which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Pennsylvania. Accordingly, for diversity purposes, Penske Truck Leasing Corporation is a citizen of Delaware and Pennsylvania.

b) Penske Automotive Group, Inc. is a limited partner of Penske. Penske Automotive Group, Inc. was, at the time of the filing of this action, at the time of removal, has



been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in the State of Michigan. Accordingly, for diversity purposes, Penske Automotive Group, Inc. is a citizen of Delaware and Michigan as defined by 28 U.S.C. § 1332.

c) Penske Truck Leasing Corporation is a limited partner of Penske. Penske Truck Leasing Corporation was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in the State of Pennsylvania. Accordingly, for diversity purposes, Penske Truck Leasing Corporation is a citizen of Delaware and Pennsylvania as defined by 28 U.S.C. § 1332.

d) Logistics Holding, LLC is a limited partner of Penske. Logistics Holding, LLC is a limited liability company formed under the laws of Delaware. For diversity purposes, the citizenship of a limited liability company is the citizenship of its members. Logistics Holding, LLC's sole member is GE Capital Truck Leasing Holding, LLC, which is also a limited liability company formed under the laws of Delaware. At the time of the filing of this action, at the time of removal, at all times since, and currently, the members of GE Capital Truck Leasing Holding, LLC are and were citizens of the states of Tennessee, Maryland, Connecticut, and Delaware, and none are or were citizens of the State of Texas. The following are GE Capital Truck Leasing Holding, LLC's members and their citizenship:

i) GE Capital US Holdings, Inc., which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Connecticut.

Accordingly, for diversity purposes, GE Capital US Holdings, Inc. is a citizen of Delaware and Connecticut.

ii) General Electric Credit Corporation of Tennessee, which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Tennessee with its principal place of business in Maryland. Accordingly, for diversity purposes, General Electric Credit Corporation is a citizen of Tennessee and Maryland.

iii) GE Capital Global Electronics Services, Inc., which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Connecticut. Accordingly, for diversity purposes, GE Capital Global Electronics Services, Inc. is a citizen of Delaware and Connecticut.

e) GE Capital Truck Leasing Holding, LLC is a limited partner of Penske. GE Capital Truck Leasing Holding, LLC is a limited liability company formed under the laws of Delaware. For diversity purposes, the citizenship of a limited liability company is the citizenship of its members. At the time of the filing of this action, at the time of removal, at all times since, and currently, the members of GE Capital Truck Leasing Holding, LLC are and were citizens of the states of Tennessee, Maryland, Delaware, and Connecticut, and none are or were citizens of the State of Texas. The following are GE Capital Truck Leasing Holding, LLC's members and their citizenship:

i) GE Capital US Holdings, Inc., which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Connecticut.



Accordingly, for diversity purposes, GE Capital US Holdings, Inc. is a citizen of Delaware and Connecticut.

ii) General Electric Credit Corporation of Tennessee, which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Tennessee with its principal place of business in Maryland. Accordingly, for diversity purposes, General Electric Credit Corporation is a citizen of Tennessee and Maryland.

iii) GE Capital Global Electronics Services, Inc., which was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Connecticut. Accordingly, for diversity purposes, GE Capital Global Electronics Services, Inc. is a citizen of Delaware and Connecticut.

f) General Electric Credit Corporation of Tennessee is a limited partner of Penske. General Electric Credit Corporation of Tennessee was, at the time of the filing of this action, at the time of removal, has been at all times since, and still is, a corporation incorporated under the laws of the State of Tennessee with its principal place of business in the State of Maryland. Accordingly, for diversity purposes General Electric Credit Corporation of Tennessee is a citizen of Tennessee and Maryland as defined by 28 U.S.C. § 1332.

g) MBK Commercial Vehicles, Inc. is a limited partner of Penske. MBK Commercial Vehicles, Inc. was, at the time of the filing of this action, has been at all times since, and still is, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Tokyo, Japan. Accordingly, for diversity purposes, MBK Commercial Vehicles, Inc. is a citizen of Delaware and Japan as defined by 28 U.S.C. § 1332.

7. In summary, for purposes of diversity, Penske is a citizen of Delaware, Pennsylvania, Tennessee, Connecticut, Maryland and Michigan and the country of Japan.

8. The \$75,000 amount in controversy threshold is met. Although Plaintiff failed to plead an exact amount of damages sought in his Original and Amended Petitions, Plaintiff has indicated he is seeking over \$100,000 in monetary relief. *See* Plaintiff's Original Petition § IX and Plaintiff's First Amended Petition § IX.

## **II.**

### **LOCAL RULE REQUIREMENTS**

9. In compliance with Local Rule CV-81, Penske provides the following information:

10. The following is a list of all parties in the case and their party type in this pending civil action:

- a) Richard E. Soape, Jr.-Plaintiff;
- b) Penske Truck Leasing Co., L.P.-Defendant;
- c) Jaswant Singh-Unserved Defendant; and
- d) Canada, Inc.-Unserved Defendant.

11. The following is a list of attorneys involved in the action:

- a) Bennie D. Rush  
State Bar No. 17400425  
1300 11th Street, Suite 300  
Hunstville, Texas 77340  
(936) 295-0700  
Bennie@bdrushlaw.com  
Attorney for Plaintiff Richard E. Soape, Jr.
- b) Mark S. Scudder  
State Bar No. 17936300  
Strasburger & Price, LLP, Suite 4400

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Dallas, Texas 75202  
(214) 651-4300  
Mark.scudder@strasburger.com  
Attorney for Defendant Penske.

c) Defendants Singh and Canada, Inc. have not been served they are not represented at this time.

12. No parties have requested trial by jury. Plaintiff makes reference to a jury in his Original Petition but does not make an express request for a jury. *See* Tex. R. Civ. P. 216.

13. This Civil Action is being removed from:

The 62nd Judicial District Court of Franklin County  
200 N. Kaufman Street  
Mt. Vernon, Texas 75457

14. Pursuant to 28 U.S.C. § 1446(a) and the local rules, Penske attaches copies of all processes, pleadings, and orders served upon them in such action. Attached hereto as Exhibit A are copies of all state court documents heretofore filed by any party to this action. A copy of the state court docket sheet is included in Exhibit A.

Respectfully submitted,

/s/ Mark S. Scudder

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**MARK S. SCUDDER**  
STATE BAR NO. 17936300  
**STRASBURGER & PRICE, LLP**  
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Dallas, Texas 75202-3794  
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(214) 651-4330 (Fax)  
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**ATTORNEY FOR DEFENDANT PENSKE  
TRUCK LEASING CO., L.P.**



**CERTIFICATE OF SERVICE**

I hereby certify that on the 3rd day of June 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of the filing to the following:

Bennie D. Rush  
Law Offices of Bennie D. Rush  
1300 11th Street, Suite 300  
Hunstville, Texas 77340

/s/ Mark S. Scudder  
Mark S. Scudder